

AN ACT

ENTITLED, An Act to revise certain provisions regarding the use of an exemption certificate for tax purposes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 10-45-61 be amended to read as follows:

10-45-61. Notwithstanding § 10-54-1, a seller, who possesses an exemption certificate from a purchaser of tangible personal property, any product transferred electronically, or services which indicates the items or services being purchased are exempt, may rely on the exemption certificate and not charge sales tax to the provider of the exemption certificate until the provider of the exemption certificate gives notice that the items or services being purchased are no longer exempt by filing a new exemption certificate with the seller.

The exemption certificate shall be signed by the purchaser. The exemption certificate shall provide the purchaser's name, address, and valid state tax license number, if applicable. However, any person filing an electronic exemption certificate is not required to sign the exemption certificate.

The purchaser claiming the protection of an exemption certificate is responsible for assuring that the goods and services delivered thereafter are of a type covered by the exemption certificate. A seller of property, any product transferred electronically, or services which are generally described under the exemption certificate is not responsible for the collection of the tax unless otherwise directed by the purchaser.

If the purchaser later determines there is any tax due and owing, the purchaser shall remit the tax owed by the purchaser to the state. If the purchaser makes an exempt purchase and later determines that the goods or services purchased are not exempt, the purchaser shall report the transaction and pay the use tax on the next filing of the purchaser's return.

Any purchaser who knowingly files an exemption certificate with a retailer in order to purchase

tangible personal property, any product transferred electronically, or services with the intent to evade payment of the tax, and fails to timely report the same with the department is guilty of a Class 1 misdemeanor. The secretary of revenue and regulation may assess a penalty of up to fifty percent of the tax owed, in addition to the tax owed. No interest may be charged on the penalty.

The seller shall retain the exemption certificate for a period of three years from the date it is filed by the purchaser and provide the exemption certificate to the department upon request.

The secretary may promulgate rules pursuant to chapter 1-26 to adopt forms for exemption certificates.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1039

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1039

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State